

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

KATHERINE WAGNER

Plaintiff,

v.

SOCIÉTÉ AIR FRANCE (improperly designated
as "Air France")

Defendant.

2004 NOV 24 A 10: 20

U.S. DISTRICT COURT
DISTRICT OF MASS.

CIVIL ACTION NO.: _____

03-40260-1088

NOTICE OF REMOVAL

TO: THE HONORABLE JUDGES OF THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

PLEASE TAKE NOTICE that the Defendant, Société Air France (improperly designated "Air France"), by and through its undersigned counsel, Robins, Kaplan, Miller & Ciresi LLP, hereby notifies this Honorable Court of the removal of the above-captioned civil action from the Fitchburg District Court to the United States District Court for the District of Massachusetts. The basis for removal is more particularly stated as follows:

1. On or about September 2, 2003, the Plaintiff, Katherine Wagner ("Plaintiff"), commenced this action by filing a Statement of Small Claim in the Fitchburg Division of the District Court Department, in the county of Worcester, in the matter captioned *Katherine Wagner v. Air France*, Civil Action No. 0316 SC 1088. A true and correct copy of the Statement of Small Claim is attached hereto as Exhibit "A."

35011700.1

FILING FEE PAID:

RECEIPT # 404216

AMOUNT \$ 150.00

BY DPTY CLK KT

DATE 11-24-03

2. On or about November 5, 2003, Defendant received a copy of the attached Notice of Small Claim at its Florida customer service center.

3. There have been no further proceedings in the Fitchburg District Court and there are no other pleadings of record in that action.

4. This Notice of Removal is being filed with the Court within thirty (30) days of Defendant's receipt of the Statement of Small Claim as provided by 28 U.S.C. §1446(b).

5. Defendant is a foreign corporation, duly organized and existing under the laws of the Republic of France, with a principal place of business located in Paris, France.

6. The Republic of France owns a majority of the shares of stock of the Defendant.

7. Defendant is an "agent or instrumentality of a foreign state" as defined by 28 U.S.C. §1603 as it is a corporation with a majority of shares owned by a foreign state or political subdivision.

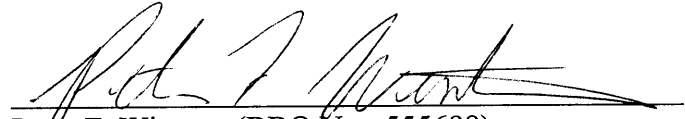
8. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §1330, without regard to the amount in controversy and this action is removable pursuant to 28 U.S.C. §1441(d).

9. As an agency or instrumentality of a foreign state, Defendant hereby invokes its right pursuant to 28 U.S.C. §1441(d) to have this action tried without a jury in the United States District Court for the District of Massachusetts.

WHEREFORE, Defendant, Société Air France (improperly designated Air France), respectfully requests that the above-captioned action be removed from the Fitchburg Division of

the District Court Department to this Honorable Court.

Respectfully submitted,
ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

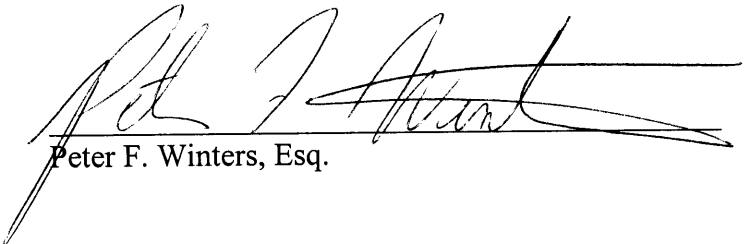
A handwritten signature in black ink, appearing to read "Peter F. Winters", is written over a horizontal line.

Peter F. Winters. (BBO No.: 555698)
1/1 Huntington Avenue, Suite 1300
Boston, Massachusetts 02199
(617) 267-2300
Attorneys for Defendant, Société Air France

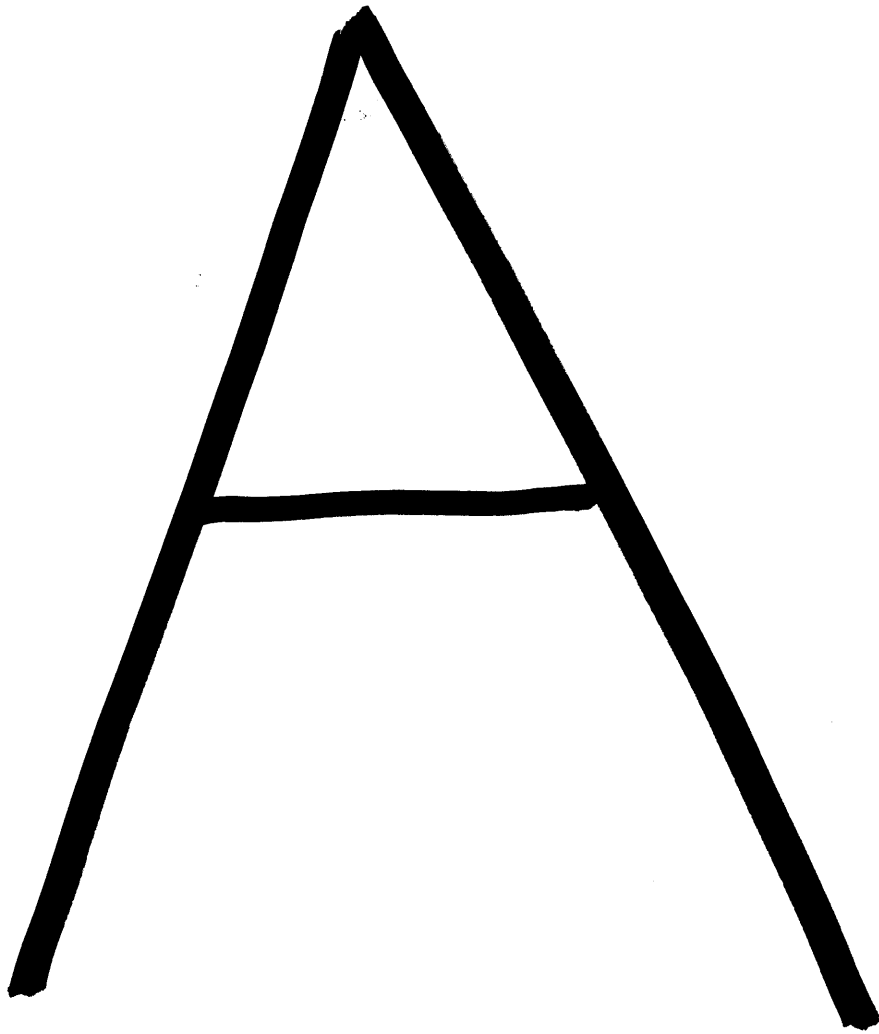
DATED: November 24, 2003

CERTIFICATE OF SERVICE

I, Peter F. Winters, Esq., hereby certify that a true and correct copy of the foregoing document has been mailed, first class mail, postage prepaid on November 24, 2003, to the plaintiff's counsel Bruce Skine, 62~~8~~ Lewis Wharf, Boston, MA 02110.



Peter F. Winters, Esq.



STATEMENT OF SMALL CLAIM AND NOTICE OF TRIAL		Use Only: 0316 SC 1088		Trial Court of Massachusetts Small Claims Section	
PART 1	<input type="checkbox"/> BOSTON MUNICIPAL COURT <input checked="" type="checkbox"/> DISTRICT COURT <div style="border: 1px solid black; padding: 2px; display: inline-block;">Fitchburg In Claims Division</div>			Division	
PART 2	PLAINTIFF'S NAME, ADDRESS, ZIP CODE AND PHONE Catherine Wagner Norm Wagner 8 Glen Lane 39 MASS AVE Sudbury MA 01776 LUNEBURG MA 01462 PHONE NO: 800 978-342-1330		PLAINTIFF'S ATTORNEY (if any) Name: _____ Address: _____ PHONE NO: _____ BBO NO: _____	<div style="border: 2px solid black; padding: 5px; display: inline-block;"> RECEIVED NOV - 7 2003 NYC. AJ </div>	
PART 3	DEFENDANT'S NAME, ADDRESS, ZIP CODE AND PHONE AIR FRANCE - Customer Relations P.O. BOX 459000 Sunrise, FL 33345 PHONE NO: 877-247-9247		ADDITIONAL DEFENDANT (if any) Name: _____ Address: _____ PHONE NO: 40.00	CLAIM 30.00 SURCHARGE 10.00 12 AM 56	
PART 4	PLAINTIFF'S CLAIM. The defendant owes \$ <u>1000.00</u> plus \$ <u>7.00</u> court costs for the following reasons: Give the date of the event that is the basis of your claim. On 7/19/03, Air France practiced unfair and deceptive trade practices. I had confirmed reservations for flight 1149. Air France bumped me from my flight and made no attempt to reschedule me on another flight, leaving me stranded in France.				
PART 5	SIGNATURE OF PLAINTIFF X <u>Catherine Wagner</u> DATE <u>9/1/03</u> MEDIATION: Mediation of this claim may be available prior to trial if both parties agree to discuss the matter with a mediator, who will assist the parties in trying to resolve the dispute on mutually agreed to terms. The plaintiff must notify the court if he or she desires mediation; the defendant may consent to mediation on the trial date. <input type="checkbox"/> The plaintiff is willing to attempt to settle this claim through court mediation.				
PART 6	MILITARY AFFIDAVIT: The plaintiff states under the pains and penalties of perjury that the: <input checked="" type="checkbox"/> above defendant(s) is (are) not serving in the military and at present live(s) or work(s) at the above address. <input type="checkbox"/> above defendant(s) is (are) serving in the military.				
NOTICE OF TRIAL	NOTICE TO DEFENDANT: You are being sued in Small Claims Court by the above named plaintiff. You are directed to appear for trial of this claim on the date and time noted to the right. If you wish to settle this claim before the trial date, you should contact the plaintiff or the plaintiff's attorney. SEE ADDITIONAL INSTRUCTIONS ON THE BACK OF THIS FORM		NAME AND ADDRESS OF COURT FITCHBURG DISTRICT COURT 100 HLM STREET FITCHBURG, MA 01420 DATE AND TIME OF TRIAL MONDAY, 12/1/03 AT 1:00 PM DATE TIME ROOM NO. MAIN FLOOR COURTROOM		BOTH THE PLAINTIFF AND THE DEFENDANT MUST APPEAR AT THIS COURT ON THE DATE AND TIME SPECIFIED A COURT USE ONLY
FIRST JUSTICE PAUL E. LOCONTO		CLERK, DEPUTY CLERK OR DESIGNEE <u>[Signature]</u>			

INSTRUCTIONS FOR FILING A SMALL CLAIM — You must complete Parts 1-6 of this form. See instructions on reverse.

00-50-1 (01/02) ATENCION: ESTE ES UN AVISO OFICIAL DE LA CORTE. SI USTED NO SABE LEER INGLÉS, OBTENGA UNA TRADUCCIÓN.

DEFENDANT'S NOTICE (FIRST CLASS MAIL OR OFFICER SERVICE)

CIVIL COVER SHEET

The JS-44 civil cover sheet and information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Katherine Wagner

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Worcester
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEY'S (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Bruce Skrine, Esq.
628 Lewis Wharf
Boston, MA 02110
508 331-6899

DEFENDANTS

Societe Air France (improperly designated as Air France)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

ATTORNEYS (IF KNOWN)

Peter F. Winters, Esq.
111 Huntington Avenue, Suite 1300
Boston, MA 02199-7610
617 267-2300

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties In Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PLTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place Of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input checked="" type="checkbox"/> 6 |

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 28 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Economic Matters <input type="checkbox"/> 894 Ebergt Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Equipment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandaus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to Judge from Magistrate Judgment

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL UNLESS DIVERSITY.)

Unfair and deceptive business practice, USC 1446

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$
2,000.00

CHECK YES only if demanded in complaint
JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) (See instructions): IF ANY

JUDGE

DOCKET NUMBER

DATE

November 24, 2003

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

FOR OFFICE USE ONLY

RECEIPT# _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS03-40260
FILED OFFICE

1. Title of case (name of first party on each side only) Katherine Wagner v. Societe Air France (improperly designated as Air France)

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.
- X III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

2004 NOV 24 A 10: 20
U.S. DISTRICT COURT
DISTRICT OF MASS.

*Also complete AO 120 or AO 121 for patent, trademark or copyright cases

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒

7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES ☐ NO ☐

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☒ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Peter F. Winters, Esq.

ADDRESS 111 Huntington Avenue, Boston, MA 02199-7610

TELEPHONE NO. 617 267-2300